

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PAUL J. McNALLY, as he is TRUSTEE,  
MASSACHUSETTS LABORERS' HEALTH AND  
WELFARE FUND and NEW ENGLAND LABORERS'  
TRAINING TRUST FUND; JAMES MERLONI, JR.,  
as he is TRUSTEE, MASSACHUSETTS LABORERS'  
PENSION FUND and MASSACHUSETTS LEGAL  
SERVICES FUND; MARTIN F. WALSH, as he is  
TRUSTEE, MASSACHUSETTS LABORERS'  
ANNUITY FUND,

Plaintiffs

vs.

LITTLETON ENVIRONMENTAL SERVICES, INC.,  
and its alter ego MADISON EXCAVATING CORP.,

Defendants

and

EASTERN BANK,

Trustee

MAGISTRATE JUDGE RBC

C.A. No.

RECEIPT # 6/1/50  
AMOUNT \$ 150  
SUMMONS ISSUED yes  
LOCAL RULE 4.1 4  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. FOW  
DATE 1/4/05

COMPLAINT ON A JUDGMENT

**I. INTRODUCTION**

1. This is an action to collect an unpaid judgment pursuant to a Default Judgment and Order entered by this Court on June 25, 2004 against Littleton Environmental Services, Inc. ("Littleton"). Plaintiffs' original lawsuit established that Littleton failed to pay contributions owed to the Plaintiff Funds under collective bargaining agreements requiring contributions to the Funds, and is liable to the Funds under the Employee Retirement Income Security Act ("ERISA") for \$234,454.94 in contributions, prejudgment interest, damages and attorneys' fees

and costs, plus post judgment interest. The Plaintiff Funds bring this suit to collect the Judgment from Littleton and/or its alter ego or successor, Madison Excavating Corp. ("Madison"), which is jointly and severally liable for the amount of the judgment.

## **II. JURISDICTION**

2. This Court has exclusive jurisdiction of this action under Section 502(a), (e) and (f) of ERISA, 29 USC §1132(a), (e), (f) without respect to the amount of controversy.

## **III. PARTIES**

3. Plaintiff Paul J. McNally is a Trustee of the Massachusetts Laborers' Health and Welfare Fund. The Massachusetts Laborers' Health and Welfare Fund is an "employee welfare benefit plan" within the meaning of §3(3) of ERISA, 29 U.S.C. §1002(3). The Fund is administered at 14 New England Executive Park, Burlington, Massachusetts, within this judicial district.

4. Plaintiff James Merloni, Jr. is a Trustee of the Massachusetts Laborers' Pension Fund. The Massachusetts Laborers' Pension Fund is an "employee pension benefit plan" within the meaning of §3(2) of ERISA, 29 U.S.C. §1002(2)(A). The Fund is administered at 14 New England Executive Park, Burlington, Massachusetts, within this judicial district.

5. Plaintiff Martin F. Walsh is a Trustee of the Massachusetts Laborers' Annuity Fund. The Massachusetts Laborers' Annuity Fund is an "employee pension benefit plan" within the meaning of §3(2)(A) of ERISA, 29 U.S.C. §1002(2)(A). The Fund is administered at 14 New England Executive Park, Burlington, Massachusetts, within this judicial district.

6. Plaintiff James Merloni, Jr. is a Trustee of the Massachusetts Laborers' Legal Services Fund. The Massachusetts Laborers' Legal Services is an "employee welfare benefit

plan” within the meaning of §3(1) of ERISA, 29 U.S.C. §1002(1). The Fund is administered at 14 New England Executive Park, Burlington, Massachusetts, within this judicial district.

7. Plaintiff Paul J. McNally is a Trustee of the New England Laborers’ Training Trust Fund. The New England Laborers’ Training Trust Fund is an “employee welfare benefit plan” within the meaning of §3(1) of ERISA, 29 U.S.C. §1002(1). The Fund is administered at 37 East Street, Hopkinton, Massachusetts, within this judicial district.

8. The Health and Welfare, Pension, Annuity, Legal Services and Training Funds are multi-employer plans within the meaning of §3(37) of ERISA, 29 U.S.C. §1002(37). They are hereinafter collectively referred to as “the Funds.”

9. Defendant Littleton Environmental Services, Inc. (hereinafter “Littleton” or “the Employer”) is a Massachusetts corporation with a principal place of business at 41 Robinson Road, Littleton, Massachusetts, and is an employer engaged in commerce within the meaning of §3(5) and (12) of ERISA, 29 U.S.C. §1002(5) and (12).

10. Defendant Madison Excavating Corp. (hereinafter “Madison” or “the Employer”) is a Massachusetts corporation with a principal place of business at 250 Hampton Street, Auburn, Massachusetts, and is an employer engaged in commerce within the meaning of §3(5) and (12) of ERISA, 29 U.S.C. §1002(5) and (12). Upon information and belief, Madison is the alter ego or successor of Littleton.

11. On information and belief, Eastern Bank is a banking institution holding assets of the defendants.

**IV. ALLEGATIONS OF FACT**

12. On or about April 16, 2002, defendant Littleton agreed in writing to be bound to the terms of the Restated Agreements and Declarations of Trust establishing Plaintiff Funds, to the terms of collective bargaining agreements requiring contributions to Plaintiff Funds; and to any successor agreements.

13. Because of the short form agreement, Littleton was party to the collective bargaining agreement that was effective from June, 2000 through May, 2004.

14. The Agreement required employers to make contributions to Plaintiff Funds for each hour worked by covered employees and specified the amount to be contributed by an employer to each of Plaintiff Funds for each hour worked. Employers were also required to file monthly Remittance Reports, on which employers calculated the payments they owed.

15. The Funds audited the payroll records of Littleton and determined that Littleton owed the Funds \$126,017.92 in unpaid contributions for the period of December, 2002 through June, 2003, together with \$2,863.25 in underpayments and interest on late paid contributions. Littleton agreed to a payment plan on or about July 30, 2003, which, if followed, would have resulted in full payment of all delinquent payments and for subsequent payments to be paid "on time in full, no exceptions." Littleton did not follow the payment plan, and although it reduced its overall audit balance in subsequent months, Littleton failed and refused to pay the balance of these unpaid contributions.

16. On December 4, 2003, Plaintiffs filed an ERISA action against Littleton for its debts from December, 2002 through June, 2003 (C.A. No. 03-12461 NG). A subsequent audit was undertaken on or about December 5, 2003, at which time it was determined that Littleton

had accrued an additional delinquency during the period July, 2003 through November, 2003 of \$145,364.94.

17. This honorable Court entered Default Judgment (the "Judgment") against Littleton on June 25, 2004 for the principal amount of \$226,082.52, prejudgment interest of \$4,829.28, liquidated damages of \$36,875.54, and attorneys' fees and costs of \$8,372.42, for a total judgment of \$234,454.94. A First Execution was issued on August 6, 2004. A true copy of the Judgment and First Execution are attached hereto as Exhibit A.

18. Littleton was organized as a Massachusetts corporation in April, 1992, involuntarily dissolved in August, 1998, and revived in April, 1999. Littleton lists its principal place of business as 41 Robinson Road, Littleton, Massachusetts. Upon information and belief, Littleton ceased operating as a business in or around November, 2003, but has not formally dissolved its status as a Massachusetts corporation.

19. Madison was organized as a Massachusetts corporation in November, 2003. Since that time, Madison has listed its principal place of business as 250 Hampton Street, Auburn, Massachusetts. A true copy of Madison's Articles of Incorporation is attached hereto as Exhibit B.

**COUNT I - VIOLATION OF ERISA -**  
**DELINQUENT CONTRIBUTIONS -**  
**SUM CERTAIN**

20. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1-19 supra.

21. Upon information and belief, Madison operates as an ongoing business and is the alter ego and/or successor of Littleton. Madison began operations in November, 2003, at the same time as Littleton was ceasing its business operations. There is continuity of ownership

between the companies, as upon information and belief, Madison's president is the son-in-law of Littleton's president. There is also a similar business purpose, as both companies engage in construction and excavation work. Upon information and belief, much of Littleton's construction and excavation equipment was provided to Madison after Littleton ceased operating. Upon information and belief, Madison also employs many former supervisory personnel and other employees of Littleton. Based upon these facts and others, Madison is the alter ego or successor of Littleton.

22. Upon information and belief, Madison has been maintained in part or in whole as a vehicle to avoid paying contributions rightfully owed to Plaintiff Funds by Littleton.

23. As the alter ego or successor of Littleton, Madison is bound to the terms of the Restated Agreements and Declarations of Trust establishing Plaintiff Funds, to the terms of collective bargaining agreements requiring contributions to Plaintiff Funds, and to any successor agreements.

24. Moreover, Madison is jointly and severally liable for all amounts owed under the Agreement by Littleton.

25. Judgment was entered against Littleton on June 25, 2004 for the principal amount of \$226,082.52, prejudgment interest of \$4,829.28, liquidated damages of \$36,875.54, and attorneys' fees and costs of \$8,372.42, for a total judgment of \$234,454.94. Although a portion of this amount has been collected from third parties, to date Littleton continues to owe the Funds \$95,905.19.

### **RELIEF REQUESTED**

WHEREFORE, the Plaintiff Funds request entry of judgment against the Defendants Littleton Environmental Services, Inc. and Madison Excavating Corp. jointly and severally in the

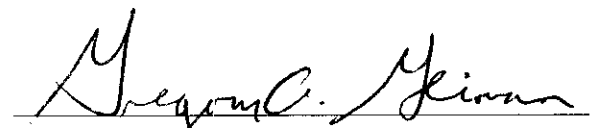
amount of \$95,905.19, plus post-judgment interest and costs for filing this action as permitted by law. Additionally, the Funds request the following relief:

- a. Order the attachment by trustee process of the bank accounts of both Littleton and Madison held by Eastern Bank and any other banking institution(s);
- b. Order the attachment of the machinery, inventory and accounts receivable of both defendants Littleton and Madison;
- c. Order defendants Madison and Littleton to make available to Plaintiff Funds or their duly authorized representative all of its payroll records, including, but not limited to, file copies of contribution reports, payroll tax returns, employees' earning records, weekly payroll registers, certified payrolls, cash disbursement journals and a complete listing of all job locations for the period December, 2002 until the date of the Court's order for the purpose of ascertaining the amounts, if any, of unpaid contributions;
- d. Enter a preliminary and permanent injunction enjoining Littleton and Madison from refusing or failing to make contributions to Plaintiff Funds and from refusing or failing to permit Plaintiff Funds to audit the payroll records as prayed for in the preceding paragraph; and
- e. Such further and other relief as this Court deems appropriate.

Respectfully submitted,

PAUL J. MCNALLY, as he is TRUSTEE,  
MASSACHUSETTS LABORERS'  
HEALTH AND WELFARE FUND, et al,

By their attorneys,



Anne R. Sills, Esquire  
BBO #546576

Gregory A. Geiman, Esquire  
BBO #655207  
Segal, Roitman & Coleman  
11 Beacon Street  
Suite #500  
Boston, MA 02108  
(617) 742-0208

Dated: December 30, 2004



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
CLERK'S OFFICE

2004 JUL 13 P 12: 50

C.A. NO. 03-12461 NG

U.S. DISTRICT COURT  
DISTRICT OF MASS

FIRST EXECUTION

To the United States Marshal for the District of Massachusetts or either of his Deputies  
and to \_\_\_\_\_, Special Process Server:

WHEREAS, the Trustees, Massachusetts Laborers' Benefit Funds have recovered judgment against Littleton Environmental Services, Inc. on the 25<sup>th</sup> day of June, 2004, for the sum of \$234,454.94 which represents \$184,377.70 in debt (fund contributions), pre-judgment interest in the amount of \$4,829.28, liquidated damages in the amount of \$36,875.54, and attorneys' fees and costs in the amount of \$8,372.42, as to us appears of record, whereof this First Execution remains to be done,

WE COMMAND YOU, therefore, that of the goods and chattels or lands of the said Judgment Debtor, to cause to be paid and satisfied unto the said Judgment Creditors, at the value thereof in money, the aforesaid sums, being a total of \$234,454.94, in the whole, with interest thereon at the rate of 2.22 % from said day of rendition of said judgment; and thereof also to satisfy yourself for your own fees.

HEREOF FAIL NOT and make due return of this Writ with your doings thereon into the Clerk's Office of our said court, at Boston, Massachusetts, within Twenty (20) years after the date of said judgment, or within Ten (10) days after this Writ has been satisfied or discharged.

Dated this 6<sup>th</sup> day of August, 2004.

TONY ANASTAS, CLERK

By:   
Deputy Clerk

FILED  
05/18/04 UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SLY  
2004 JUN 17 P 4 19

PAUL J. McNALLY, as he is TRUSTEE,  
MASSACHUSETTS LABORERS' HEALTH AND  
WELFARE FUND and NEW ENGLAND LABORERS'  
TRAINING TRUST FUND; JAMES MERLONI, JR.,  
as he is TRUSTEE, MASSACHUSETTS LABORERS'  
PENSION FUND and MASSACHUSETTS LEGAL  
SERVICES FUND; MARTIN F. WALSH, as he is  
TRUSTEE, MASSACHUSETTS LABORERS'  
ANNUITY FUND,

Plaintiffs

vs.

LITTLETON ENVIRONMENTAL SERVICES, INC.,  
Defendant

and

J.T. CALLAHAN & SONS, INC.,  
Reach-and-Apply Defendant

and

FLEET BANK,

Trustee

C.A. No. 03-12461 NG

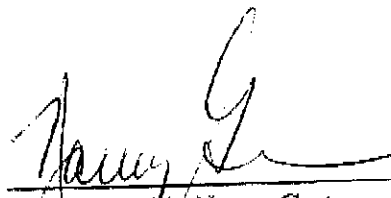
**DEFAULT JUDGMENT**

Defendant Littleton Environmental Services, Inc., having failed to plead or otherwise defend in this action and its default having been entered,

Now, upon application of Plaintiffs and affidavits and a memorandum of law demonstrating that Defendant owes Plaintiffs the sum of \$226,082.52 in unpaid benefit funds contributions; \$4,829.28 in interest on the unpaid contributions; \$36,875.54 in liquidated

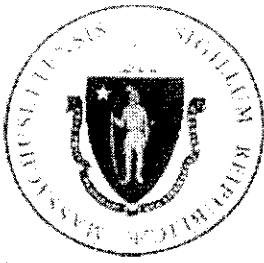
damages; and attorneys' fees and costs of \$8,372.42; and that Defendant is not an infant or incompetent person or in the military service of the United States, it is hereby

ORDERED, ADJUDGED AND DECREED that Plaintiff recover from Defendant Littleton Environmental Services, Inc. the principal amount of \$226,082.52; prejudgment interest of \$4,829.28; liquidated damages of \$36,875.54; attorneys' fees and costs of \$8,372.42, for a total judgment of \$234,454.94., with interest as provided by law, which interest rate is effective this date is 2.22 percent.

  
\_\_\_\_\_  
The Honorable Nancy Gertner  
United States District Court

Dated: 6/25/04

MA SOC Filing Number: 200355797820 Date: 11/06/2003



**The Commonwealth of Massachusetts**  
**William Francis Galvin**

Minimum Fee: \$275.00

Secretary of the Commonwealth  
 One Ashburton Place, Boston, Massachusetts 02108-1512  
 Telephone: (617) 727-9640

**Articles of Organization**

(General Laws, Chapter 156B)

**Federal Employer Identification Number:** 200334054 (must be 9 digits)

**ARTICLE I**

The exact name of the business entity is:

MADISON EXCAVATING CORP.

**ARTICLE II**

The purpose of the business entity is to engage in the following business activities:

CONSTRUCTION AND EXCAVATION

**ARTICLE III**

State the total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

| Class of Stock | Par Value Per Share<br>Enter 0 if no Par | Total Authorized by Articles<br>of Organization or Amendments |                 | Total Issued<br>and Outstanding<br>Num of Shares |
|----------------|--|---|-----------------|--|
|                |  | Num of Shares   | Total Par Value |  |
| CNP            | \$0.00000                                | 2,000   | \$0.00          | 100  |

**ARTICLE IV**

If more than one class of stock is authorized, state a distinguishing designation for each class. Prior to the issuance of any shares of a class, if shares of another class are outstanding, the Business Entity must provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of that class and of each other class of which shares are outstanding and of each series then established within any class.

N/A

**ARTICLE V**

The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are:

N/A

**ARTICLE VI**

Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the business entity, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the business entity, or of its directors or stockholders, or of any class of stockholders:

NONE

**Note: The preceding six (6) articles are considered to be permanent and may ONLY be changed by filing appropriate Articles of Amendment.**

### ARTICLE VII

The effective date of organization of the business entity shall be the date approved and filed by the Secretary of the Commonwealth. If a *later* effective date is desired, specify such date which shall not be more than *thirty* days after the date of filing.

**Later Effective Date:**

### ARTICLE VIII

The information contained in Article VIII is not a permanent part of the Articles of Organization

**a. The street address (post office boxes are not acceptable) of the principal office of the corporation in Massachusetts is:**

No. and Street: 250 HAMPTON STREET

City or Town: AUBURN

State: MA Zip: 01501 Country: USA

**b. The name, residential address and post office address of each director and officer of the corporation is as follows:**

| Title     | Individual Name<br>First, Middle, Last, Suffix | Address (no PO Box)<br>Address, City or Town, State, Zip Code                              | Expiration<br>of Term |
|-----------|--|--|-----------------------|
| PRESIDENT | KEVIN S. HUNT                                  | 12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA<br>12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA | Until Succeeded       |
| TREASURER | CATHERINE V. HUNT                              | 12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA<br>12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA | Until Succeeded       |
| CLERK     | CATHERINE V. HUNT                              | 12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA<br>12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA | Until Succeeded       |
| DIRECTOR  | KEVIN S. HUNT                                  | 12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA<br>12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA | Until Succeeded       |
| DIRECTOR  | CATHERINE V. HUNT                              | 12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA<br>12 FARMSTEAD WAY<br>LITTLETON, MA 01460 USA | Until Succeeded       |

**c. The fiscal year (i.e., tax year) of the business entity shall end on the last day of the month of:**  
December

**d. The name and business address of the resident agent, if any, of the business entity is:**

Name:

No. and Street:

City or Town:

State:

Zip:

Country:

**ARTICLE IX**

By-laws of the business entity have been duly adopted and the president, treasurer, clerk and directors whose names are set forth above, have been duly elected.

**IN WITNESS WHEREOF AND UNDER THE PAINS AND PENALTIES OF PERJURY, I/we,**  
**whose signature(s) appear below as incorporator(s) and whose name(s) and business or**  
**residential address(es) are beneath each signature do hereby associate with the intention of**  
**forming this business entity under the provisions of General Law, Chapter 156B and do hereby**  
**sign these Articles of Organization as incorporator(s) this 6 Day of November, 2003. (If an**  
*existing corporation is acting as incorporator, type in the exact name of the business entity, the*  
*state or other jurisdiction where it was incorporated, the name of the person signing on behalf of*  
*said business entity and the title he/she holds or other authority by which such action is taken.)*

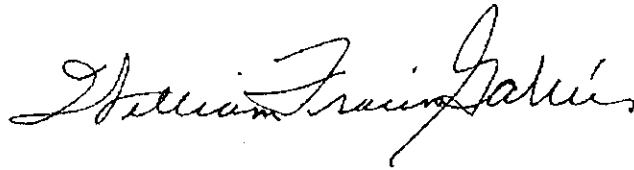
THOMAS C. RAUKER

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

November 06, 2003

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in dark ink and is centered on the page.

WILLIAM FRANCIS GALVIN

*Secretary of the Commonwealth*

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Paul J. McNally, as he is Trustee,  
Mass. Laborers' Health & Welfare Fund v. Littleton Environmental Services, Inc., and  
its alter ego Madison Excavating Corp.  
 2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE  
 CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1))

— I 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.  
 X II 195, 360, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730,  
 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.  
 — III 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,  
 315, 370, 370, 370, 370, 370, 370, 370, 370, 370, 370, 370, 370, 370,  
 380, 385, 450, 891.  
 — IV 220, 422, 423, 430, 440, 510, 530, 610, 620, 620, 640, 650, 660,  
 670, 810, 861-865, 870, 871, 875, 900.  
 — V 150, 152, 153.

\*Also complete AO 120 or AO 121  
 for patent, trademark or copyright cases

05-10011 PBS

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E))  
N/A

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?  
 YES ☐ NO ☒
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403)  
 YES ☐ NO ☒  
 IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?  
 YES ☐ NO ☐
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2264?  
 YES ☐ NO ☒
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C))  
 YES ☐ NO ☒  
 OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? -  
 (SEE LOCAL RULE 40.1(D))  
 YES ☐ NO ☒
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT?  
 (a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE?  
 YES ☐ NO ☒
9. IN WHICH SECTION DO ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? N/A
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION? YES ☐ NO ☐ N/A OR WESTERN SECTION: YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Gregory A. Geiman

ADDRESS Segal, Roitman & Coleman, 11 Beacon Street, Suite #500, Boston, MA 02108

TELEPHONE NO. (617) 742-0208

(Caption rev. 3/97)



## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

PAUL J. McNALLY, as he is TRUSTEE, MASSACHUSETTS LABORERS' HEALTH AND WELFARE FUND and NEW ENGLAND LABORERS' TRAINING TRUST FUND; JAMES MERLONI, JR., as he is TRUSTEE, MASSACHUSETTS LABORERS' PENSION FUND and MASSACHUSETTS LEGAL SERVICES FUND; MARTIN F. WALSH, as he is TRUSTEE, MASSACHUSETTS LABORERS' ANNUITY FUND

## DEFENDANTS

Littleton Environmental Services, Inc., and  
its alter ego Madison Excavating Corp.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anne R. Sills, Esquire  
Segal, Roitman & Coleman  
11 Beacon Street, Suite #500  
Boston, MA 02108

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

| CONTRACT   | TORTS   | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES   |
|--|---|--|---|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans - Excl. Veterans<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Other Contract Liability | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Persons<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc.<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 881 Agricultural Acts<br><input type="checkbox"/> 882 Economic Stabilization Act<br><input type="checkbox"/> 883 Environmental Matters<br><input type="checkbox"/> 884 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes<br><input type="checkbox"/> 890 Other Statutory Actions |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing, Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 440 Other Civil Rights<br><b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 Habeas Corpus: General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition  | <b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act                            | <b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 WIA 1395ff<br><input type="checkbox"/> 862 Black Lung 923<br><input type="checkbox"/> 863 DMC/DWW 405(g)<br><input type="checkbox"/> 864 SSD Title XV<br><input type="checkbox"/> 865 PSI 405(g)<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS - Third Party 26 USC 7609   |  |

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

This is a claim to collect unpaid benefit fund contributions, brought pursuant to ERISA, 29 U.S.C. Sec. 1132.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) (See instructions):

IF ANY N/A

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING FEE

JUDGE

MAG JUDGE